IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3667 of 2005

Between:

Krishnaveni All Castes Sand and Ferry Boat Workers Development Mutually Aided Co-operative Society Limited, rep.by its Presidet Sri M.Donge, S/o.Muthyal Rao, R/o.Vundavalli, Thadepalli Mandal, Guntur District.

..... PETITIONER

AND

1 The District Level Committee for Sand, rep.by its Chairperson, Zillaparishad, Guntur District.
2 The District Panchyat officer, and Member Convenor, District Level Committee for Sand, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order or orders or direction or writ more particularly one in the nature of writ of Mandamus declaring the action of the respondent in not granting fresh leasehold rights relating to Reach No.10, Upstream of Prakasham Barrage, Krishna River, Vundavalli, Guntur District to the petitioner society for the year 2005 to 2006 as illegal and arbitrary and consequentially direct the respondents to grant lease hold rights and to pass such other order or orders as this Hon'ble court may deem fit and proper in the interest of justice.

Counsel for the Petitioner : SMT. K.SHYAMALA REDDY

Counsel for the Respondents : GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.3667 OF 2005

ORAL ORDER :

The petitioner seeks a declaration that the action of the respondents in not granting fresh leasehold rights relating to Reach No.10, Upstream of Prakasam Barrage, Krishna River, Vundavalli, Guntur District as arbitrary and illegal.

It is not in dispute that the petitioner was granted lease in respect of Reach No.10 for the period from 28-02-2003 to 27-02-2004. Subsequently, he was granted extension for one more year upto 27-02-2005. Thereafter, on an application made by the petitioner, the second respondent granted extension of lease for a period of 12 days from 28-02-2005 to 11-03-2005 in lieu of the period during which the petitioner was prevented from quarrying during Krishna Pushkarams. Now, the petitioner states on the basis of the proceedings of the Superintending Engineer (Irrigation), Vijayawada, dated 1-12-2004 confirming that due to upstream protection and resumption of work during April, 2004 to May, 2004 the water level was reduced to

‘0’ level, and consequently during the said period the petitioner could not extract the sand from river by boats, he made a further representation on 14-12-2004 seeking extension of leasehold rights for a further period of four months, however the respondents have not considered the same. Hence, this writ petition seeking a declaration that the action of the respondents in not granting fresh leasehold rights in respect of the said Reach as arbitrary and illegal.

At the outset, it is to be noted that the petitioner earlier filed W.P.No.3147 of 2005 questioning the notification dated 6-2-2005 issued by the District Panchayat Officer whereunder the Reach in question was notified to public auction for grant of lease with effect from 28-2-2005. This Court, having heard the learned Counsel for both the parties, disposed of the said writ petition recording the statement of the learned Government Pleader for Panchayat Raj that no auction would be held or the lease will be granted to any person in respect of Reach No.10 for the period prior to 11-03-2005. It is to be noted that in the said writ petition though the petitioner pleaded that he made an application dated 14-12-2004 seeking further extension of lease for a period of four months and the respondents have failed to consider the same, the petitioner did not press the relief for grant of extension of lease beyond 11-03-2005 and accordingly the Writ Petition was disposed of leaving it open to the respondents to grant fresh lease with effect from 11-03-2005 under the impugned notification. Hence, it is not open to the petitioner to reagitate the issue and to seek further extension. If he so chooses, it is always open to the petitioner to participate in the auction.

Accordingly, the Writ Petition is misconceived and the same is dismissed. No costs.

_____

1st March, 2005

gbs

To

1. The Chairperson, District Level Committee for Sand,

Zillaparishad, Guntur District.

2 The District Panchyat officer, and Member Convenor, District Level Committee for Sand, Guntur District.

3. Two CCs to G.P. for Panchayat Raj & Rural Development, High Court of AP Bldgs, Hyderabad (OUT).

4. Two CD copies.